IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

	NO. 5:05-CR-163-FL NO. 5:08-CV-319-FL	
DAVID HENDERSON,)	
Petitioner,)	
V.)	ORDER
UNITED STATES OF AMERICA,)	
Respondent.))	

This matter comes before the court on petitioner David Henderson's motion for certificate of appealability (DE # 191). The matter is ripe for adjudication. As explained below, petitioner's motion is denied.

On January 14, 2010, petitioner filed a motion pursuant to Federal Rule of Civil Procedure 60(b) for relief from the district court's order denying his 28 U.S.C. § 2255 motion. On March 5, 2010, the court denied petitioner's Rule 60(b) motion. Petitioner then filed a notice of appeal in the Fourth Circuit Court of Appeals. On May 20, 2010, the Fourth Circuit denied petitioner's motion for certificate of appealability and dismissed his appeal. Because the Fourth Circuit dismissed petitioner's appeal, his motion for a certificate of appealability (DE # 191) is DENIED as moot.

SO ORDERED, this the day of December, 2010.

Chief United States District Judge